

where the amount is nominal or the result of an evident mathematical error, no such assessment shall be made until and after notice has been afforded such person to show cause against assessment. The person will be allowed 45 days from the date of such notice to show cause, in writing, against such assessment.

(72 Stat. 1417; 26 U.S.C. 5703)

[T.D. 6871, 31 FR 57, Jan. 14, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55856, Sept. 28, 1979; T.D. ATF-232, 51 FR 28090, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

### Subpart E—Packaging Requirements

#### § 295.41 Packages.

All tobacco products, and cigarette papers and tubes shall, before removal under this part, be put up by the manufacturer in packages which shall be of such construction as will securely contain the articles therein and maintain the mark, notice, and label thereon, as required by this subpart. No package of tobacco products, or cigarette papers or tubes shall have contained therein, attached thereto, or stamped, marked, written, or printed thereon (a) any certificate, coupon, or other device purporting to be or to represent a ticket, chance, share, or an interest in, or dependent on, the event of a lottery, or (b) any indecent or immoral picture, print, or representation.

(72 Stat. 1422; 26 U.S.C. 5723)

[T.D. 6871, 31 FR 58, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. ATF-232, 51 FR 28090, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

#### § 295.42 Mark.

Every package of tobacco products shall before removal from the factory under this part, have adequately imprinted thereon, or on a label securely affixed thereto, a mark as specified in this section. The mark may consist of the name of the manufacturer removing the product and the location (by city and State) of the factory from which the products are to be so removed, or may consist of the permit number of the factory from which the products are to be so removed. (Any

trade name of the manufacturer approved as provided in § 270.65 of this chapter may be used in the mark as the name of the manufacturer.) As an alternative, where tobacco products are both packaged and removed by the same manufacturer, either at the same or different factories, the mark may consist of the name of such manufacturer if the factory where packaged is identified on or in the package by a means approved by the Director. Before using the alternative, the manufacturer shall notify the Director in writing of the name to be used as the name of the manufacturer and the means to be used for identifying the factory where packaged. If approved by him the Director shall return approved copies of the notice to the manufacturer. A copy of the approved notice shall be retained as part of the factory records at each of the factories operated by the manufacturer.

(72 Stat. 1422; 26 U.S.C. 5723)

[T.D. 6871, 31 FR 58, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. ATF-232, 51 FR 28090, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

#### § 295.43 Notice for smokeless tobacco.

(a) *Product designation.* Every package of chewing tobacco or snuff shall, before removal under this part, have adequately imprinted thereon, or on a label securely affixed thereto, the designation "chewing tobacco" or "snuff." As an alternative, packages of chewing tobacco may be designated "Tax Class C," and packages of snuff may be designated "Tax Class M."

(b) *Product weight.* Every package of chewing tobacco or snuff shall, before removal under this part, have adequately imprinted thereon, or on a label securely affixed thereto, a clear statement of the actual pounds and ounces of the product contained therein. As an alternative, the shipping cases containing packages of chewing tobacco or snuff may, before removal, have adequately imprinted thereon, or on a label securely affixed thereto, a clear statement, in pounds and ounces, of the total weight of the product, the tax class of the product, and the total

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number of the packages of product contained therein.

(Approved by the Office of Management and Budget under control number 1512-0488)

(Sec. 202, Pub. L. 85-859, 72 Stat. 1422 (26 U.S.C. 5723))

[T.D. ATF-232, 51 FR 28090, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

### § 295.44 Notice for cigars.

Before removal under this part, every package of cigars shall have adequately imprinted on it, or on a label securely affixed to it—

- (a) The designation “cigars”;
- (b) The quantity of cigars contained in the package; and
- (c) For small cigars, the classification of the product for tax purposes (i.e., either “small” or “little”).

(Sec. 202, Pub. L. 85-859, 72 Stat. 1422 (26 U.S.C. 5723))

[T.D. ATF-80, 46 FR 18312, Mar. 24, 1981]

### § 295.45 Notice for cigarettes.

Every package of cigarettes shall, before removal under this part, have adequately imprinted thereon, or on a label securely affixed thereto, the designation “cigarettes”, the quantity of such product contained therein, and the classification for tax purposes, i.e., for small cigarettes, either “small” or “Class A”, and for large cigarettes, either “large” or “Class B”.

(72 Stat. 1422; 26 U.S.C. 5723)

[27 FR 4478, May 10, 1962. Redesignated at 40 FR 16835, Apr. 15, 1975]

### § 295.45a Notice for pipe tobacco.

(a) *Product designation.* Every package of pipe tobacco shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, the designation “pipe tobacco.” As an alternative, packages of pipe tobacco may be designated “Tax Class L.”

(b) *Product weight.* Every package of pipe tobacco shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, a clear statement of the actual pounds and ounces of the product contained therein.

[T.D. ATF-289, 54 FR 48842, Nov. 27, 1989]

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### § 295.45b Transitional rule.

Notwithstanding the provisions of §§ 295.42 and 295.45a as they relate to pipe tobacco, manufacturers of pipe tobacco may continue to use packages in use prior to January 1, 1989, until March 31, 1990.

[T.D. ATF-289, 54 FR 48842, Nov. 27, 1989]

### § 295.46 Tax-exempt label.

Every package of tobacco products, and cigarette papers and tubes removed under this part shall have the words “Tax-Exempt. For Use of U.S. Not To Be Sold.” adequately imprinted on the package or on a label securely affixed thereto.

(72 Stat. 1422; 26 U.S.C. 5723)

[T.D. 6871, 31 FR 58, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975; and amended by T.D. ATF-232, 51 FR 28090, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

## Subpart F—Records

### § 295.51 Supporting record.

Every manufacturer who removes tobacco products, and cigarette papers and tubes under this part shall, in addition to the records kept under part 270 of this chapter, keep a supporting record of such removals and shall make appropriate entries therein at the time of removal. The supporting record shall show, with respect to each removal, the date of removal, the name and address of the Federal agency to which shipped or delivered, the quantity and, with respect to large cigars, the wholesale price or sale price, as applicable. Appropriate entries shall also be made in the supporting record of any tobacco products, or cigarette papers or tubes removed under this part which are returned to the factory. Where the manufacturer keeps, at the factory, copies of invoices or other commercial records containing the information required as to each removal, in such manner that the information may be readily ascertained therefrom, such copies will be considered the supporting record required by this section. The supporting record shall be retained by the manufacturer for 3 years following the close of the year covered therein and shall be